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## **Exhibit C**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

WAYNE BERRY, a Hawaii citizen;

Plaintiff,

vs.

HAWAIIAN EXPRESS SERVICE,  
INC., et al.,

Defendants.

) CIVIL NO. CV03-00385 SOM-LEK  
) (Copyright)  
)  
>) **DECLARATION OF MARTIN G.  
WALKER RE:**  
>) **DEFENDANT'S MOTION TO  
EXCLUDE PLAINTIFF'S USE OF  
PRIVILEGED COMMUNICATIONS  
AT TRIAL**  
>)  
>) Judge: Honorable Susan Oki Mollway  
)) Trial Date: February 28, 2006

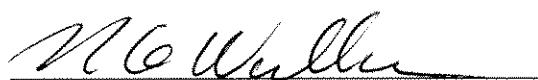
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**DECLARATION OF MARTIN G. WALKER**

I, Martin G. Walker, declare under penalty of perjury under the laws of the United States of America that the foregoing is true and accurate to the best of my knowledge and belief:

1. I have been retained by the Post-Confirmation Trust for Fleming Companies, Inc. to examine certain software and related documents and, if possible, render opinions on certain topics in the above-entitled action.
2. I was provided with Guidance-produced images of certain files (the "Before Images"). I understand that some of these files contain attorney-client communications. I was instructed not to review any such documents. Thus, during the course of my investigations leading to the opinions that I articulated in my expert report and supplemental reports, I never even opened the files containing the privileged communications. Thus, I did not consider, read, review, or rely upon these privileged documents.
3. I did review and catalog the contents of the Before Images, and I studied the various database snapshots contained on the images. During the past week, I was also asked to confirm that some emails were actually on the Before Images produced in September, 2005. However, I accomplished these tasks without reviewing the substance of the privileged communications.

Executed at Honolulu, Hawai'i on February 28, 2006.



Martin G. Walker